THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 21293 of 2004

O r d e r:

Questioning the proceedings of the first respondent-Regional Passport Officer, Secunderabad in file No. HYD MO 2160704, dated 08-09-2004 directing the petitioner to get a declaratory order from civil court for correction of his date of birth in his Passport bearing No. A-2863077, as illegal and arbitrary, and consequently direct the first respondent to issue fresh Passport with correct date of birth, the petitioner filed this writ petition.

The petitioner states that his grandfather, who is an illiterate, entered his date of birth wrongly in the school record as 03-05-1974, as reflected in the School Transfer Certificate, on the basis of which, he applied for Passport during 1997, and he was issued Passport bearing No. A-2863077 by the first respondent. On realizing that his date of birth was recorded wrongly in the school records, the petitioner states that he got his date of birth corrected in the school records as 03-05-1979, as is evident from his Secondary School Certificate. The petitioner states that as his date of birth was recorded wrongly in the Passport, he made an application dated 03-09-2004 to the first respondent for correction of his date of birth in the Passport as 03-05-1979 instead of 03-05-1974. While so, it is the case of the petitioner that the first respondent issued the impugned proceedings directing him to get a declaratory order from Civil Court inasmuch as the correction of his date of birth sought by him on the basis of Secondary School Certificate is different from the one recorded in the Transfer Certificate, on the basis of which the Passport was issued.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

The learned counsel for the petitioner submitted that the petitioner's grandfather being an illiterate got the date of birth of the petitioner wrongly entered in the school records as 03-05-1974 instead of 03-05-1979, and on the basis of the date of birth recorded in the Transfer Certificate, the petitioner was issued Passport, and

inasmuch as the petitioner after realizing that his date of birth was wrongly recorded in the school records, got it corrected as 03-05-1979, which is reflected from the Secondary School Certificate, the first respondent ought not to have refused to correct his date of birth in the Passport on the basis of the Secondary School Certificate on the ground that the same is different from the one recorded in the Transfer Certificate and directed him to get a declaratory order from civil Court.

The learned Standing Counsel for the Central Government on the other hand produced the application and the documents, namely Transfer Certificate etc., submitted by the petitioner along with it, for obtaining Passport, and submitted that the date of birth of the petitioner as entered by the petitioner in the application and Transfer Certificate, is recorded in the Passport as 03-05-1974, and inasmuch as the petitioner is seeking correction of his date of birth as 03-05-1979 on the basis of the one recorded in the Secondary School Certificate, which is different from the one entered in the Transfer Certificate, the first respondent refused to correct the date of birth of the petitioner and had rightly directed him to obtain a declaratory order from civil Court, and no exception can be taken thereto.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.
No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the Passport is

made, the Passport Issuing Authority is required to follow the aforementioned instructions.

At the time of obtaining Passport during 1997, the petitioner admittedly submitted School Transfer Certificate, issued by Government Chandrashekar Azad High School, as proof of his date of birth, and the date of birth, as recorded in the said School Transfer Certificate and as entered by the petitioner in the application submitted by him for obtaining the Passport, was recorded in the Passport issued to him, and the petitioner does not dispute the same. Though the petitioner contends that his grandfather being an illiterate had entered his date of birth wrongly as 03-05-1974 in the school records, and on realizing it, got the same corrected in the school records as 03-05-1979, as is reflected from the Secondary School Certificate, it is required to notice that the petitioner studied up to VI class in Government Chandrashekar Azad High School, and appears to have studied and passed 10th class from St. Theresa's High School, and it is not known, how and on what basis, the date of birth of the petitioner, was corrected in the Secondary School Certificate from that of the one reflected in the School Transfer Certificate. Since the date of birth of the petitioner, as recorded in the School Transfer Certificate, on the basis of which he obtained Passport, is quite different from the one recorded in the Secondary School Certificate, on the basis of which the petitioner is seeking correction of his date of birth, and the date of birth of the petitioner in the said certificates having been recorded by two different school authorities, which are running into conflict with each other, in order to remove the ambiguity as to his date of birth, the respondent had rightly called upon the petitioner to produce a declaratory order from the civil court as to his correct date of birth so as to effect necessary correction in the Passport issued to him.

In the above view of the matter, I see no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: December, 2004.

SVV/KSR